

Chapter 7

ANTIQUE DEALERS, COMMON MARKETS, JUNK DEALERS, SCRAP METAL PROCESSORS, PAWNBROKERS AND RELATED BUSINESSES*

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ARTICLE I. IN GENERAL

Sec. 7-1. Dealers in secondhand jewelry, tableware, precious gems, etc.

(a) *Definitions.* The following words and phrases shall have the following meanings in this section:

- (1) *Business* means an activity carried on for profit, but shall not include occasional purchases or trades by a hobbyist.
- (2) *Licensee* means any person licensed as a pawnbroker by the state, as a junk dealer or a secondhand dealer pursuant to article III of this chapter, as an antique dealer pursuant to article II of this chapter or pursuant to this section.
- (3) *Pledged goods* means tangible personal property other than choses in action, securities or printed evidences of indebtedness, which property was deposited with, or otherwise actually delivered into the possession of a pawnbroker as security for money loaned, or on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.
- (4) *Precious metal* means gold, silver or platinum.
- (5) *Tableware* means any flatware, dishes, serving pieces or other items designed or intended to be used in connection with the serving or eating of food when such items are made of any precious metal or wholly or partially plated with a precious metal.

(6) *Used* means any item, article or goods which have been previously owned by someone other than the manufacturer or a dealer whose business it is to sell such items, articles or goods when new to the consumer.

(b) *License required.* No person shall engage in the business of buying, trading, or otherwise receiving used jewelry, used tableware, or other used items containing precious stones or made of or plated with precious metals unless he is licensed pursuant to the licensing provisions of this section, is licensed as a junk dealer or secondhand dealer pursuant to article III of this chapter, is licensed as an antique dealer pursuant to article II of this chapter, is licensed as a pawnbroker pursuant to the statutes of the state or is acting in the employment of one licensed under one of the above-listed laws.

(c) *Application for license.* To obtain a license under this section, the applicant shall file an application therefor in writing to the tax assessor-collector on a form provided for that purpose. On the application, the applicant shall provide the following information:

- (1) The full name and mailing address of each owner and operator of the business;
- (2) Whether any owner or operator is an individual, partnership, corporation, or other legal entity;
- (3) If any owner or operator is a corporation, all officers of the corporation; and if there are

*Cross references—Automotive dealers, auto wreckers and auto wrecking and salvage yards, Ch. 8; tire storage and tire carriers, § 21-181 et seq.; itinerant vendors, Ch. 22.

fewer than five (5) shareholders, the names of all shareholders;

- (4) If any owner or operator is a partnership, the names and addresses of all partners;
- (5) If any owner or operator is an association, the names and addresses of all officers of such association;
- (6) The location where the business will be conducted;
- (7) The time period or periods during which the business will be conducted.

Such application form shall be accompanied by an affidavit of the applicant that neither he nor any business partner, nor, in the case of a corporation, any corporate officer, has had a license under this chapter or any preceding city ordinance governing the businesses described herein revoked.

Upon receipt of such application, the tax assessor-collector or his designated agents shall investigate the items sworn to by affidavit. If neither the applicant, his business partners, nor any corporate officers have had a license revoked as described above, the tax assessor-collector shall issue a license to the applicant upon payment of the license fee.

If the tax assessor-collector rejects the application he shall give written notice by certified mail to the applicant at the address stated in the application. The written notice shall specifically set forth the reasons for the rejection. A rejection shall be subject to appeal in the same manner provided in section 7-18 of this Code for an antique dealer's license.

(d) *Fee.* The fee for a license issued pursuant to this section shall be fifty dollars (\$50.00) per year. The license shall be valid for one year from the date of issuance unless the applicant does not intend to continue business for a full year and applies for a license for less than one full year. The fee for a license for less than one year shall be twelve dollars and fifty cents (\$12.50) for each ninety (90) days or part thereof, or two dollars (\$2.00) per day, whichever is less.

An organization engaged in a business described herein, but which has qualified as nonprofit and which is exempt from taxation under the provisions of Section 501(c)(3) of Title 26 (Internal Revenue Code) of the United States Code, must obtain a license as required herein; provided however, that such organization shall be exempt from paying the license fee required herein. All other provisions of this section apply to such organizations.

(e) *License valid for one location; change of address charge.* A license issued pursuant to this section shall be valid only for the location set out in the application. However, a license issued pursuant to this section is valid for the purchase, trade or other receipt of any of the items regulated by this section.

Should any person licensed under this section move his place of business from the place designated in such license to a new address, he shall give prior written notice to the tax assessor-collector and have the change noted on his license. A fee of two dollars (\$2.00) payable to the tax assessor-collector is hereby levied for such a change.

(f) *Records to be kept.* Every person engaged in the business of buying, trading or otherwise receiving used jewelry, used tableware, or other used items made of precious stones or precious metals shall keep at his place of business within this city a consecutively numbered ticket or record book in a form approved by the chief of police in which he enters each such item received on the day the item was received. The ticket or record book shall contain the following information:

- (1) An accurate description of the property;
- (2) The name, address and driver's license or Texas personal identification certificate number of the person from whom such items were acquired;
- (3) The date and hour of acquisition;
- (4) The motor vehicle license number of the vehicle in which such items were delivered, if delivered by motor vehicle.

The licensee, his agents or employees shall obtain a receipt from the seller or transferor of the property. Such receipt shall be dated on the actual date of the transaction and such receipts shall list the items sold or otherwise transferred.

All entries in the record book or on the tickets shall be written in ink and made legibly. Each

person required to keep records under this section shall, upon request, submit and exhibit all tickets, record books, and business records connected with the receipt of goods regulated by this section for inspection and copying to any police officer of the city or authorized inspector of the tax assessor-collector's office at any time during regular business hours. Such records shall be retained for a period of not less than one year after the last transaction entered therein.

Any licensee which ceases to maintain a place of business within this city shall deliver the records kept pursuant to this section to the chief of police within twenty-four (24) hours of the time he ceases to maintain a place of business within the city.

(g) *Seven-day retention period.* A licensee shall ensure that no item regulated by this section which is received by him, or by any agent or employee acting in the scope of their employment is melted, altered or defaced unless the licensee has retained the item for a period of not less than seven (7) days after the initial acquisition.

During such seven-day period such items must be retained intact, and they shall be subject to inspection hereunder.

(h) *Dealing with minors.* No licensee shall purchase or otherwise receive in the course of his business, any item, ownership of which is claimed by any minor, or which may be in the possession of or under control of a minor, unless the minor's parent or guardian shall state in writing, that such transaction is taking place with such parent's or guardian's full knowledge and consent.

(i) *Suspicion of stolen property.* It shall be the duty of the licensee, his agents or employees to report immediately to the police department any offer to sell to the licensee, his agents or employees, property which such licensee, his agents or employees have actual knowledge is stolen or by reasonable diligence should know is stolen, together with the identity, when known, and description of the person or persons making such offer. Such licensee, his agents, or employees, shall also report any property acquired by the licensee which the licensee, his agents or employees, subsequently determine or reasonably suspect to be

stolen property and the licensee, his agents, or employees, shall furnish such other information as might be helpful to the police in investigating the matter.

(j) *Revocation of license.* A license issued pursuant to this section may be revoked if the licensee, his agent or employees, have, since the license was granted, violated the provisions of this chapter, or any state or federal statute involving the criminal offense of theft, or the provisions of sections 37.09 or 37.10 of the Texas Penal Code, or that the licensee falsified his original application for a license.

Prior to revocation, written notice shall be given to the licensee or person in charge. Such notice shall set forth:

- (1) The grounds upon which the city will seek revocation of the license;
- (2) The specific acts upon which the city will rely in seeking revocation of the license;
- (3) That a hearing will be held before the tax assessor-collector or his designated agent;
- (4) The date, time and place of such hearing;
- (5) That the licensee may appear in person and/or be represented by counsel, may present testimony and may cross-examine all witnesses.

All hearings shall be held by the tax assessor-collector or his designated representative. Such official shall be referred to as the hearing officer. However, the tax assessor-collector shall not designate any person to perform the duties of hearing officer who has participated in or supervised any investigation of the licensee's place of business or investigation of the charges under which the city is seeking revocation of the license. Nevertheless the person designated as hearing officer may, prior to the hearing, receive a copy of the notice given to the licensee or person in charge.

All hearings shall be conducted under rules consistent with the nature of the proceedings and only evidence presented before the hearing officer at such hearing may be considered in rendering the order.

If the licensee fails to appear at the hearing at the time, place and date specified, the city shall present sufficient evidence to establish a prima facie case showing that there are grounds for revocation of the license.

After completion of the hearing, the hearing officer shall make written findings as to whether or not grounds exist for revocation of the license. If the hearing officer finds that grounds do exist for revocation of the license, he shall revoke it. The decision of the hearing officer shall be final.

A copy of the written findings shall be served on the licensee. If the address of the licensee is unknown or if such findings have been sent certified mail, return receipt requested, and return undelivered, such findings shall be served on the person in charge of the business or on an agent or employee of the licensee.

Any notice provided for in this section may be served by personal delivery or by certified mail, return receipt requested.

In the event a license is revoked, the city shall not be liable to the licensee for any refund of any part of the license fee.

(k) *Exception to article provisions.* The provisions of this section shall not be applicable to any transactions involving the receipt of pledged goods by a pawnbroker licensed by the state.

(l) *Violation; penalty.* Any violation of the provisions of this section shall be punished as provided by section 1-6 of this Code. Each day a violation exists shall constitute a separate offense.

(m) *Posting of license.* A license issued pursuant to this section shall be posted in a conspicuous place upon the licensed premises.

(Code 1968, § 28-63; Ord. No. 75-1947, § 1, 10-29-75; Ord. No. 77-1013, § 5, 5-24-77; Ord. No. 81-315, § 1, 2-24-81; Ord. No. 82-133, §§ 1-4, 1-20-82; Ord. No. 92-1449, § 7, 11-4-92)

Charter reference—Penalties for ordinance violations, Art. II, § 12.

Cross references—Assessment of fines against corporations, § 16-76; payment of fines, § 16-78; credit against fines for incarceration, § 35-6 et seq.

Sec. 7-2. Used appliance yards; fencing requirements; display, storage, etc.

(a) Definitions.

- (1) The term "used appliance yard" as used herein shall mean any lot or tract of land whereon three (3) or more used appliances are located temporarily or permanently, for whatever purpose, except where all such used appliances are located within an enclosed building.

The term "used" for the purposes of this section shall mean appliances which have been previously owned by someone other than the manufacturer or a dealer whose business it is to sell such appliances to the public.

The term "appliance" as used herein shall mean a household or business apparatus, machine or device which utilizes an electrical, gas or other power supply including, but not limited to, stoves, refrigerators, air conditioners, washing machines, clothes dryers, dishwashers, coolers and freezers.

- (2) The term "solid" as used herein shall mean constructed and maintained so that the outer surface thereof is continuous and without interstices, gaps, spaces or holes. This shall not be construed to prohibit any spaces or gaps left by a properly constructed and maintained chain link fence with strips or slats as hereinafter provided.

(b) Every used appliance yard within the city shall be completely surrounded and enclosed by a solid fence or wall as follows:

- (1) Any side of such yard which extends generally parallel to, and within one hundred (100) feet of any public street right-of-way shall be bounded by a solid fence or wall at least eight (8) feet in height.
- (2) All sides of such yard not included in (1) above shall be bounded by a solid fence or wall at least six (6) feet in height.

(c) Every fence or wall herein required shall be constructed and maintained as follows:

- (1) All fences shall be constructed of wood, masonry, corrugated sheet metal, chain link,

or any combination thereof; provided however, that any one side of a used appliance yard shall be bounded by a fence or wall constructed of only one of the above materials.

- (2) Chain link fences shall be constructed of galvanized chain link fencing with wood or metal slats or strips run through all links of the chain link fence.
- (3) All fences or walls shall extend downward to within three inches of the ground and shall test plumb and square at all times.
- (4) All fences or walls shall be constructed in compliance with all applicable provisions of the Construction Code.

(d) Any part of a fence or wall required by subsection (b) hereof may consist in whole or in part of a solid wall and door, or walls and doors of any completely enclosed building on said premises, if such wall or door meets all construction requirements hereinabove set forth.

(e) Openings in the prescribed enclosure which are necessary to permit reasonable access to said used appliance yards, shall be equipped with a solid gate or gates, constructed and maintained in accordance with the requirements for a fence or wall hereinabove set forth. Such gates shall be closed and securely locked at all times except during normal business hours.

(f) It shall be unlawful for any owner or operator, the agents or employees of an owner or operator, to display, store or work on any appliance or the parts, accessories or junk therefrom outside of the herein required fence or wall.

(g) All used appliances, parts and other materials located in or on the premises of any used appliance yard in the city shall be so arranged as to allow reasonable access to and inspection of the premises by authorized fire, neighborhood protection, and police officials of the city.

(h) Failure to comply with any provisions of this section shall be grounds for the revocation of or the refusal to issue or renew any license required for the owner or operator of such used

appliance yard under any section or subsection of this Code. Any violation of any provisions of this section shall be a misdemeanor.

(Code 1968, § 28-64; Ord. No. 76-1017, §§ 1—9, 6-22-76; Ord. No. 91-1102, § 3, 7-31-91; Ord. No. 93-514, § 14, 5-5-93; Ord. No. 94-674, § 5, 7-6-94; Ord. No. 98-613, § 17, 8-5-98; Ord. No. 02-399, § 17, 5-15-02)

Charter reference—Penalties for ordinance violations, Art. II, § 12.

Cross references—Assessment of fines against corporations, § 16-76; payment of fines, § 16-78; credit against fines for incarceration, § 35-6 et seq.

Secs. 7-3—7-15. Reserved.

ARTICLE II. ANTIQUE DEALERS

Sec. 7-16. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Antique dealer* shall mean anyone who engages in the business of buying, selling, trading, or otherwise dealing in used items which, because of age or design or quality or intrinsic beauty, or rarity or demand or otherwise have a value enhanced over the original value of such goods.
- (2) *Show* shall mean any display and offering of used items for sale or trade by more than one dealer at a single location.
- (3) *Used* shall mean any items, goods, products, wares, chattels, or articles of any sort, which have previously been owned by someone other than the manufacturer, or dealer whose business it is to sell such items, goods, products, wares, chattels, or articles when new to the customer.

(Code 1968, § 6½-1; Ord. No. 76-146, § 1(1), 2-3-76)

Sec. 7-17. License required; display.

No person shall operate as an antique dealer or own any such business without a license as herein provided. A separate license shall be required for